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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,116	01/20/2004	Sanjiv Nanda	040092/QUALP839US	3945
70797 7590 05/14/2009 TUROCY & WATSON, LLP 127 Public Square 57th Floor, Key Tower Cleveland, OH 44114			EXAMINER JAIN, RAJ K	
			ART UNIT 2416	PAPER NUMBER
			NOTIFICATION DATE 05/14/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/762,116	Applicant(s) NANDA ET AL.	
	Examiner RAJ JAIN	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/26/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

General Remarks

Upon further consideration, Examiner withdraws the Finality of the Office Action submitted on July 7, 2008 and presents this Non-Final Action for consideration by the Applicant.

Claim Objections

Claim 22 is objected to because of the following informalities: Reword preamble as follows; "Computer readable storage media embodying a program of instructions executable by a processor to perform steps comprising: Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim is a single means claim where all elements or features are being accomplished by a single entity, while the apparatus appears to have two or more separate elements such as "transmitter" and "receiver".

Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 fails to differentiate between claim limitation and the preamble, "A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble". Claim 11 recites no claim "body" or no specific limitation. Suggest separating the preamble from the actual claim limitation.

Claims 12-20 rejected due to their dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Shiue et al (USP 6,590,872 B1).

Regarding claim(s) 1, 11, 21 and 22, Shiue discloses a network node (Fig. 1) comprising: a transmitter 111; a receiver 112; and

a controller configured to automatically and repeatedly cause the network node to cycle back and forth between transmitting information on a network with the transmitter and receiving information with the receiver from the network (Fig. 3, the correlate functions as the controller which receives and transmits data and non-data packets in specific cycles or time frames or epochs; col 1 lines 46-55; col 5 lines 10-21; col 6 line 60- col 7 line 65), wherein the lengths of at least some of the transmissions and/or receptions vary in accordance with a pre-determined pattern (pre-determined time frame with bit matching is congruent to pre-determined pattern; col 11 lines 11-28).

Regarding claim(s) 2 and 12, Shiue discloses a pseudorandom noise generator configured to generate a pseudorandom noise code and wherein the pattern is based on the pseudorandom noise code (col 2 lines 24-34).

Regarding claim(s) 3 and 13, Shiue discloses controller is further configured to cause the transmitter to transmit an offset from the pseudorandom noise code indicative of when the network node will be receiving information (col 9 lines 1-22, delay timing congruent to offset which provides constraints to prevent collisions between transmissions).

Regarding claim(s) 4 and 14, Shiue discloses the controller and receiver are further configured to cause the network node to receive an offset from the pseudorandom noise code from another network node indicative as to when the other node will be receiving information (col 9 lines 1-22, delay timing congruent to offset which provides constraints to prevent collisions between transmissions).

Regarding claim(s) 5 and 15, Shiue discloses controller is further configured to cause the transmission of the information based on the pseudorandom noise code offset received from the other node (col 9 lines 1-22, delay timing congruent to offset which provides constraints to prevent collisions between transmissions).

Regarding claim(s) 6 and 16, Shiue discloses the transmitter is a wireless transmitter and the receiver is a wireless receiver (Fig. 1; wireless TRX 120).

7 Regarding claim(s) 7 and 17, Shiue discloses the controller is configured to cause the information that is transmitted and received to be processed by spread spectrum technology (Spec is replete with spread spectrum technology, here are some portions; Fig. 1, col 1 lines 37-45; col 2 lines 24-45; col 3 lines 34-41; col 4 lines 54-67; col 7 lines 37-50).

Regarding claim(s) 8 and 18, Shiue discloses configured to function as a cell phone (Fig. 1; TRX 120 can be any mobile device).

Regarding claim(s) 9 and 19, Shiue discloses the controller is configured to cause the ratio of the time the network node transmits to the time the network node receives during each neighboring transmit / receive cycle to be substantially constant

(pre-determined time frame with bit matching is congruent to pre-determined pattern; col 11 lines 11-28, and further a time frame is one of which is a fixed communication window and thus a constant communication transmit/receive cycle based on desired pattern).

Regarding claim(s) 10 and 20, Shiue discloses the controller is further configured to cause the transmitter to transmit information indicative of the ratio (again pre-different time frame is a fixed communication window and thus a constant ratio is maintained).

Response to Arguments

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJ JAIN whose telephone number is (571)272-3145. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raj K. Jain/

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